

# **Exhibit F**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

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 :  
BMG RIGHTS MANAGEMENT (US) LLC, :  
et al., :  
 :  
Plaintiffs, :  
 :  
vs. : Case No. 1:14-cv-1611  
 :  
 :  
 :  
COX ENTERPRISES, INC., et al., :  
Defendants. :  
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VOLUME 10

TRIAL TRANSCRIPT

December 16, 2015

Before: Liam O'Grady, USDC Judge

And a Jury

1 factors: The profits that Cox earned because of the  
2 infringement; the expenses Cox saved because of the  
3 infringement; the revenues that BMG lost because of the  
4 infringement; the difficulty of proving BMG's damages; the  
5 circumstances of the infringement; whether Cox acted willfully  
6 or intentionally in contributorily or vicariously infringing  
7 BMG's copyrights; deterrence of future infringement; and the  
8 amount of harm, in the form of monetary loss, that BMG could  
9 reasonably have avoided but for the failure to mitigate  
10 damages, if you find that BMG did fail to mitigate.

11 You should award statutory damages whether or not  
12 there is evidence of the actual damage suffered by BMG, and  
13 your statutory damage award need not be based on the actual  
14 damages suffered by BMG.

15 Cox's contributory or vicarious infringement is  
16 considered willful if BMG proves by a preponderance of the  
17 evidence that Cox had knowledge that its subscribers' actions  
18 constituted infringement of BMG's copyrights, acted with  
19 reckless disregard for the infringement of BMG's copyrights, or  
20 was willfully blind to the infringement of BMG's copyrights.

21 In this case, Cox asserts the affirmative defense of  
22 failure to mitigate damages. Cox must prove each element of  
23 this defense by a preponderance of the evidence.

24 Plaintiff has a duty to use reasonable efforts to  
25 mitigate damages. To "mitigate" means to avoid or reduce